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STATE OF MAINE

## Citizen Trade Policy Commission

April 17, 2009

Sen. Seth Goodall, Chair  
Rep. Robert Duchesne, Chair  
Joint Standing Committee on Natural Resources  
124<sup>th</sup> Maine Legislature  
2 State House Station  
Augusta, ME 04333-0002

Dear Senator Goodall, Representative Duchesne, and Members of the Joint Standing Committee on Natural Resources:

The Maine Citizen Trade Policy Commission was established by the Legislature in 2003 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

The CTPC would like to highlight implications international trade agreements may have in the dialogue your committee is having regarding groundwater extraction. This is an issue that citizens around the state are dealing with today, and several of these local groups have contacted us seeking assistance with understanding the role trade agreements play in regards to groundwater extraction. We have been looking at the issue for several months and would like to provide you with some important information.

Water is a natural resource that is becoming more of a trade commodity as global demand for it increases. As a globally traded commodity, water then falls under certain international trade and investment agreements.

In some cases, municipalities that sign contracts with multinational corporations, as many of our local towns and cities have done or are debating, may face issues should they need to regulate that water in the future. Free trade agreements like the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) contain investor-state provisions that allow foreign companies the right to challenge laws that they feel restrict their ability to profit.

One example that illustrates this situation is the case of Metalclad vs. Mexico. The town, Guadalcazar in the State of San Luis Potosi, denied Metalclad a permit to build a landfill on top of a drinking water aquifer. The Forum on Democracy and Trade, a national network of state and local officials interested in advancing trade while safeguarding local authority, stated: "In the Metalclad case, Mexico was faulted for allowing environmental regulations adopted at the sub national level to interfere with the use of Metalclad's property, which has the effect of depriving the owner of 'reasonably-to-be-expected economic benefit of the property.' A NAFTA tribunal ruled this as tantamount to expropriation under article 1110 9 (1) of NAFTA."

The threat of challenge under international trade and investment agreements is not a reason for municipalities and the Legislature to hesitate in passing policies to protect its natural resources as it sees fit. We see this as information citizens, legislators, and municipalities should have before they decide to sign a contract with a multi-national corporation, in order to prevent future challenges or limits to their sovereign right to govern their resources such as water.

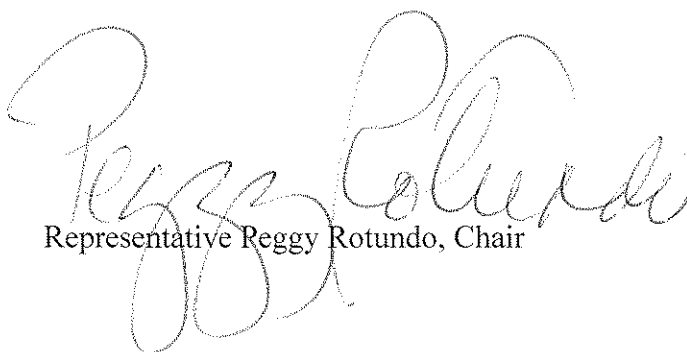
We would be happy to provide more information for your committee as you move forward with your important service to the people of Maine. Please feel free to contact us, as chairs of the Citizen Trade Policy Commission, for more information.

Sincerely,



Senator Troy Jackson, Chair

SB/lm



Representative Peggy Rotundo, Chair